

Information Transport Systems, Inc. and International Brotherhood of Electrical Workers Local 103, AFL-CIO. Case 1-CA-27321

May 8, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

On December 11, 1990, the National Labor Relations Board issued a Decision and Order, *inter alia*, ordering Information Transport Systems, Inc. to make whole certain of its unit employees for its failure to make payments on their behalf to various fringe benefit funds in violation of the National Labor Relations Act.¹ On October 8, 1991, the United States Court of Appeals for the Sixth Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due, on January 30, 1992, the Regional Director for Region 1 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated March 9, 1992, the Regional Office advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by March 20, 1992, summary judgment would be sought. The Respondent filed no answer.

On April 9, 1992, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment, with exhibits attached. On April 15, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, Information Transport Systems, Inc., Burlington, Massachusetts, its officers, agents, successors, and assigns, shall make whole the individuals named in the compliance specification, by paying the following total amount on their behalf to the various fringe benefit funds as set forth in the compliance specification, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Total fringe benefit fund contributions owed:
\$32,315.56

¹ 300 NLRB No. 116.